

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF TEXAS  
FORT WORTH DIVISION

KEN PAXTON, in his official capacity as §  
Attorney General of Texas, §  
DAVID SCHNITZ, §  
TRACY MARTIN, and §  
FLOICE ALLEN, §  
*Plaintiffs,* §  
§

vs. §

Civil Action No. 4:22-cv-00143-P

GARY M. RESTAINO, in his official §  
Capacity as Acting Director, Bureau of §  
Alcohol, Tobacco, Firearms and Explosives, §  
*Defendant.* §

---

PLAINTIFFS' UNOPPOSED MOTION TO AMEND COMPLAINT WITH  
THE OPPOSING PARTY'S WRITTEN CONSENT UNDER RULE 15(a)(2),  
TO DENY DEFENDANTS' MOTION TO DISMISS AS MOOT,  
AND TO VACATE THE SCHEDULING ORDER

---

Plaintiffs Ken Paxton, in his official capacity as Attorney General of Texas, David Schnitz, Tracy Martin, and Floice Allen file this Unopposed Motion to Amend Complaint with the Opposing Party's Written Consent Under Rule 15(a)(2), to Deny Defendant's Motion to Dismiss as Moot, and to Vacate the Scheduling Order.

Plaintiffs filed their First Amended Complaint on May 17. ECF No. 11. The Court ordered Defendant to answer or otherwise respond to Plaintiffs' Amended Complaint no later than June 15, for Plaintiffs to file a response to Defendants' motion to dismiss by July 6, and Defendants to file a reply by July 20. ECF No.17. Defendant filed a timely motion to dismiss on June 15. ECF No. 18.

On June 23, the Supreme Court of the United States issued its opinion in *New York State Rifle & Pistol Ass'n, Inc. v. Bruen*, No. 20-843, 2022 WL 2251305 (U.S. June 23, 2022). Plaintiffs believe that the opinion has changed several Second-Amendment legal doctrines, and that it would be helpful to the Court to amend their complaint because the currently filed Amended Complaint is now out of date. Defendant does not oppose and provided written consent for Plaintiffs to amend their Complaint.

Consequently, Plaintiffs request that they be allowed to file a Second Amended Complaint by July 20. Defendant is not opposed to that deadline.

Because the currently filed Amended Complaint will be withdrawn, Plaintiffs request that the Court deny Defendants' Motion to Dismiss as moot and to vacate the scheduling order, ECF No. 17.

Respectfully submitted,

KEN PAXTON  
Attorney General of Texas

BRENT WEBSTER  
First Assistant Attorney General

RALPH MOLINA  
Special Counsel to the First Assistant  
Texas Bar No. 24116780

/s/ Charles K. Eldred  
CHARLES K. ELDRED  
Special Litigation Counsel  
Texas Bar No. 00793681

OFFICE OF THE ATTORNEY GENERAL OF TEXAS  
Administrative Law Division  
P. O. Box 12548  
Austin, Texas 78711-2548  
(512) 936-1706 • fax (512) 320-0167  
charles.eldred@oag.texas.gov

/s/ Tony K. McDonald  
TONY K. MCDONALD  
State Bar No. 24083477

GARRETT MCMILLAN  
State Bar No. 24116747

THE LAW OFFICES OF TONY McDONALD  
1501 Leander Dr., Suite B2  
Leander, Texas 78641  
(512) 200-3608 • fax (815) 550-1292  
tony@tonymcdonald.com

WARREN V. NORRED  
State Bar No. 24045094

NORRED LAW, PLLC  
515 E. Border Street  
Arlington, Texas 76010  
(817) 704-3984 • fax (817) 524-6686  
warren@norredlaw.com

*Attorneys for Ken Paxton,  
Attorney General of Texas*

*Attorneys for David Schnitz,  
Tracy Martin, and Floice Allen*

**CERTIFICATE OF CONFERENCE**

We certify that we conferred with Emily Nestler, counsel for Defendant by email and that she is unopposed to this motion.

/s/ Charles K. Eldred    /s/ Tony K. McDonald  
Charles K. Eldred        Tony K. McDonald

**CERTIFICATE OF SERVICE**

We certify that a true and accurate copy of the foregoing document was filed electronically (via CM/ECF) on July 1, 2022.

Emily B. Nestler  
Trial Attorney  
U.S. Department of Justice  
Civil Division, Federal Programs Branch  
1100 L Street N.W.  
Washington, DC 20005  
emily.b.nestler@usdoj.gov

Attorney for Defendants

/s/ Charles K. Eldred    /s/ Tony K. McDonald  
Charles K. Eldred        Tony K. McDonald